

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
JUNE 09, 2021**

**CALL TO ORDER  
6:00 PM**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. in 2nd Floor Conference Room of the South Campus Building, 40 11th Street West, Suite 200 Kalispell, Montana. Board members present were Sandra Nogal, Greg Stevens, Mike Horn, Jeff Larsen, Elliot Adams, Verdell Jackson, Kevin Lake and Buck Breckenridge. Erin Appert, Laura Mooney, Donna Valade, and Mark Mussman represented the Flathead County Planning & Zoning Office.

There were approximately 60 members of the public in attendance, plus an unknown number of people in attendance via Zoom.

**APPROVAL OF  
MEETING  
MINUTES  
6:00 PM**

Nogal made a motion, seconded by Jackson, to approve the May 12, 2021 Flathead County Planning Board meeting minutes.

Motion passed unanimously on a roll call vote.

**PUBLIC  
COMMENT  
*(Public matters that  
are within the  
jurisdiction of the  
Board 2-3-103  
M.C.A)*  
6:01 PM**

None

**DISCLOSURE OF  
ANY CONFLICT  
OF INTERESTS  
6:01 PM**

None

**MARK E OWENS  
(FZC-21-01)  
6:01 PM**

A zone change request from Sands Surveying, Inc. on behalf of Mark E. Owens for property in the Rural Whitefish Zoning District. The proposal would change the zoning on property located at 420 Haugen Heights Road, near Whitefish, MT from SAG-10 (*Suburban Agricultural*) to R-2.5 (*Rural Residential*) on approximately 20.087 acres.

**STAFF REPORT  
6:02 PM**

Laura Mooney reviewed staff report FZC-21-01 for the board.

**BOARD  
QUESTIONS  
6:03 PM**

None

**APPLICANT  
PRESENTATION  
6:03 PM**

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicant. They were in agreement with the findings. He summarized the surrounding zoning and said it fit with in the neighborhood policies.

**BOARD  
QUESTIONS  
6:04 PM**

None

**AGENCY  
COMMENTS  
6:04 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC  
COMMENT  
6:04 PM**

None

**BOARD  
QUESTIONS  
6:05 PM**

Adams questioned if the average daily trips represented in the staff report was an error. Staff confirmed it was.

**MAIN MOTION  
TO ADOPT F.O.F.  
(FZC-21-01)  
6:06 PM**

Lake made a motion, seconded by Jackson, to adopt staff report FZC-21-01 as findings of fact.

**BOARD  
DISCUSSION  
6:06 PM**

None

**ROLL CALL TO  
ADOPT F.O.F.  
(FZC-21-01)  
6:07 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION  
TO RECOMMEND  
APPROVAL  
(FZC-21-01)  
6:07 PM**

Lake made a motion, seconded by Jackson, to recommend approval of FZC-21-01 to the Board of County Commissioners.

**BOARD  
DISCUSSION  
6:07 PM**

None

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FZC-21-01)  
6:07 PM**

Motion passed unanimously on a roll call vote.

**GRIFFIN  
SUBDIVISION  
(FPP-20-20)  
6:08 PM**

A request from Willow Holdings, LLC with technical assistance from 406 Engineering, Inc., for preliminary plat approval of Griffin Subdivision, a proposal to create seven (7) residential lots to be served by individual wells and septic systems on approximately 160 acres. Access to each lot within the proposed subdivision would be from Griffin Creek Road.

**STAFF REPORT  
6:08 PM**

Erin Appert reviewed staff report FPP-20-20 for the board.

**BOARD  
QUESTIONS  
6:12 PM**

Larsen wondered if they needed to vote separate in each variance.

**APPLICANT  
PRESENTATION  
6:12 PM**

Loren Smith with 406 Engineering, 35 8<sup>th</sup> Street E., represented the applicant. He was in agreement with the findings but discussed a few. The recommendation from the fire department, to provide a 30,000 gallon fire holding tank, they found to be a bit excessive and wished to install a 10,000 gallon holding tank instead. The annexation to the Marion Fire District was not an issue; were neutral on that. They had applied for two variances and he explained their reasoning behind them. He did not feel the variance would be a detriment to any health and safety.

**BOARD  
QUESTIONS  
6:17 PM**

Larsen wondered where the power was presently located at. Smith replied power currently ended near the DNRC fire station along Pleasant Valley Road. They would need to extend power 2.2 miles to get it to the subdivision. He stated the variance was a practical matter as it would be disruptive to the whole neighborhood.

Nogal confirmed they were open to being annexed to Marion Fire District. Smith said they were open to it either way.

Stevens stated the power extension likely was not a problem between the fire station and the BPA lines because it was flat. Smith confirmed it was better along Pleasant Valley Road. Stevens asked about the applicant's discussion with Flathead Electric. Smith replied Flathead Electric stated underground

installation would require extensive blasting, rock cutting, and potentially road demolition. Stevens asked if they discussed the capacity of the fire suppression system with the fire agencies and where the 30,000 gallon requirement came from. Smith stated it came from the Flathead County Fire Service Area Manager. Larsen confirmed it is not a specific condition of approval.

**AGENCY  
COMMENTS  
6:22 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC  
COMMENT  
6:23 PM**

Dan Salier, 575 Mt Hwy 82, spoke in opposition of the proposal because the overhead power lines would create visual blight.

**APPLICANT  
REBUTTAL  
6:24 PM**

Rick Glewwe, 830 Kienas Road, was the applicant and stated Flathead Electric informed him that once they go underground, they could not go above ground.

**STAFF  
REBUTTAL  
6:25 PM**

None

**BOARD  
QUESTIONS  
6:25 PM**

Stevens asked whether the Forest Service plows Griffin Creek Road. Smith replied the Forest Service does plow the road when they get around to it, however, as they addressed in their comment, their level of maintenance might not be up to residential standards.

**MAIN MOTION  
TO ADOPT F.O.F.  
(FPP-20-20)  
6:26 PM**

Breckenridge made a motion, seconded by Jackson, to adopt staff report FPP-20-20 as findings of fact.

**BOARD  
DISCUSSION  
6:26 PM**

None

**ROLL CALL TO  
ADOPT F.O.F.  
(FPP-20-20)  
6:27 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION  
TO RECOMMEND  
APPROVAL  
(FPP-20-20)  
6:27 PM**

Nogal made a motion, seconded by Adams, to recommend approval of FPP-20-20 to the Board of County Commissioners.



**BOARD  
DISCUSSION  
6:28 PM**

Breckenridge brought up discussion on whether separate notions were needed for the variances. Larsen confirmed the separate notions were required.

**MOTION TO  
APPROVE  
VARIANCE TO  
SECTION 4.7.7(b)  
6:28 PM**

Nogal motioned, seconded by Adams, to recommend approval of the variance to Section 4.7.7 (b).

**BOARD  
DISCUSSION  
6:28 PM**

None

**ROLL CALL TO  
APPROVE  
VARIANCE TO  
SECTION 4.7.7(b)  
6:29 PM**

Motion passed unanimously on a roll call vote

**MOTION TO  
APPROVE  
VARIANCE TO  
SECTION 4.7.23  
6:29 PM**

Stevens motioned, seconded by Nogal, to recommend approval of the variance to Section 4.7.23.

**BOARD  
DISCUSSION  
6:29 PM**

Jackson was reluctant to approve underground power due to the lack of evidence regarding bedrock and potential difficulties, and the fact there was public testimony in opposition. He was more concerned about whether it could be done underground. He supported the variance request.

Stevens stated he typically did not like overhead power in forested areas since trees could fall on the lines, however, he was in support of the variance because Flathead Electric was recommending overhead power, based on the applicant's testimony.

Adams stated he supported the variance. He pointed out Finding of Fact #15 stated the variance request did not meet the variance criteria and asked the Board whether it was an issue since they already voted on the findings. Larsen replied he did not believe it was an issue.

Breckenridge stated he supported the variance because it was Flathead Electric's responsibility. It was unfortunate overhead power was not as aesthetically pleasing, but the owner should have the ability to get power to the property.

**ROLL CALL TO  
APPROVE  
VARIANCE TO  
SECTION 4.7.23  
6:33 PM**

Motion passed unanimously on a roll call vote

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FPP-20-20)  
6:33 PM**

Motion passed unanimously on a roll call vote.

**HODGSON  
COURT  
SUBDIVISION  
(FPP-21-02)  
6:34 PM**

A request from 406 Engineering, Inc., on behalf of Twin Peaks Storage, LLC, for preliminary plat approval of Hodgson Court Subdivision, a proposal to create four (4) residential lots to be served by individual septic systems and a community well. The property is located at 555 Hodgson Road, Kalispell, MT and contains approximately 2.37 acres.

**STAFF REPORT  
6:34 PM**

Laura Mooney reviewed staff report FPP-21-02 for the board.

**BOARD  
QUESTIONS  
6:36 PM**

None

**APPLICANT  
PRESENTATION  
6:36 PM**

Loren Smith, 406 Engineering, Inc., 35 8<sup>th</sup> Street East, represented the applicant. They had no objections to the findings or the report. He felt it was going to be a good use for the property. They were looking forward to the improvements and will make a nice subdivision with the 4 lots. He was available for questions.

**BOARD  
QUESTIONS  
6:38 PM**

None

**AGENCY  
COMMENTS  
6:38 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC  
COMMENT  
6:38 PM**

None

<b>MAIN MOTION TO ADOPT F.O.F. (FPP-21-02) 6:39 PM</b>	Lake made a motion, seconded by Jackson, to adopt staff report FPP-21-02 as findings of fact.
<b>BOARD DISCUSSION 6:39 PM</b>	None
<b>ROLL CALL TO ADOPT F.O.F. (FPP-21-02) 6:39 PM</b>	Motion passed unanimously on a roll call vote.
<b>MAIN MOTION TO RECOMMEND APPROVAL (FPP-21-02) 6:39 PM</b>	Adams made a motion, seconded by Jackson, to recommend approval of FPP-21-02 to the Board of County Commissioners.
<b>BOARD DISCUSSION 6:40 PM</b>	None
<b>ROLL CALL TO RECOMMEND APPROVAL (FPP-21-02) 6:40 PM</b>	Motion passed unanimously on a roll call vote.
<b>AMENDED PLAT OF LOT 1 OF WALCHLI MILLER ESTATES (FPP-21-03) 6:40 PM</b>	A request from Eric Mulcahy of Sands Surveying, Inc., on behalf of John Kinsella for preliminary plat approval of the Amended Plat of Lot 1 if Walchli Miller Estates, a proposal to create two (2) new residential lots to be served by individual wells and septic systems. The property is located at 407 Montford Road, Kalispell, MT and contains approximately 8.24 acres.
<b>STAFF REPORT 6:40 PM</b>	Donna Valade reviewed staff report FPP-21-03 for the board.
<b>BOARD QUESTIONS 6:43 PM</b>	Nogal questioned why the applicant wanted to subdivide.

**APPLICANT  
PRESENTATION  
6:44 PM**

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicant. He summarized the proposal and intent behind the subdivision. He discussed similar subdivisions and patterns within this particular area. He said they were requesting the variance because it was not worth trying to find a paving company to come out for 56' of paved road. The variance to the paving requirement pertained to a small amount of pavement and the applicant had offered the options of waving the right to protest and RSID to the paving of Montford Road or a donation of cash-in-lieu to the road department.

**BOARD  
QUESTIONS  
6:45 PM**

Larsen and Mulcahy briefly discussed the cash-in lieu proposal.

Nogal asked if there was anything in the original subdivision which would require the owner to keep eight acres. Mulcahy replied there was not.

**AGENCY  
COMMENTS  
6:46 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC  
COMMENT  
6:46 PM**

None

**BOARD  
QUESTIONS  
6:47 PM**

None

**MAIN MOTION  
TO ADOPT F.O.F.  
(FPP-21-03)  
6:47 PM**

Breckenridge made a motion, seconded by Lake, to adopt staff report FPP-21-03 as findings of fact.

**BOARD  
DISCUSSION  
6:47 PM**

None

**ROLL CALL TO  
ADOPT F.O.F.  
(FPP-21-03)  
6:47 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION  
TO RECOMMEND  
APPROVAL  
(FPP-21-03)  
6:48 PM**

Adams made a motion, seconded by Jackson, to recommend approval of FPP-21-03 to the Board of County Commissioners.

**BOARD  
DISCUSSION  
6:48 PM**

The board discussed the need to approve the variance separately and a subsequent motion was made.

**MOTION TO  
APPROVE  
VARIANCE TO  
SECTION 4.7.17(f)  
6:48 PM**

Nogal motioned, seconded by Adams, to recommend approval of the variance to Section 4.7.17(f).

**BOARD  
DISCUSSION  
6:49 PM**

Breckenridge asked if they needed to nail down which ones they needed to be. Larsen said they could add that as a condition later.

Larsen said it did not make sense to pave 56' of a county road. It did meet the criteria of the variance.

**ROLL CALL TO  
APPROVE  
VARIANCE TO  
SECTION 4.7.17(f)  
6:49 PM**

Motion passed unanimously on a roll call vote.

**BOARD  
DISCUSSION  
6:50 PM**

Larsen asked staff if they could add a condition to address the waiver for the RSID. Mulcahy interjected that the state law would allow it if they specified what it was for; for example if it was paving for Montford Road, they would be covered by the latest state law. Larsen recalled that to be true. They also discussed addressing the cash-in-lieu.

Stevens said he did not have a problem with the RSID because the applicant had brought it up. Stevens did want it noted, on the record, that this was not to set a precedence.

Mussman informed them that the County Attorneys had provided them with standard language regarding waiving a protest to an RSID that they could also utilize.

Breckenridge wondered if they could add a condition that the County Attorneys could provide that.

They continued to discuss specifics of exact language for the condition they were proposing.

**MOTION TO ADD  
CONDITION #11(f)  
6:56 PM** Larsen motioned, seconded by Nogal to add Condition #11(f) to read:  
*f. Lot owners waive the right to protest an RSID to paving Montford Road.*

**BOARD  
DISCUSSION  
6:56 PM** None

**ROLL CALL TO  
ADD CONDITION  
#11(f)  
6:56 PM** Motion passed unanimously on a roll call vote.

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FPP-21-03)  
6:56 PM** Motion passed unanimously on a roll call vote.

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**SKYVIEW  
SUBDIVISION  
RESUBMITTAL  
(FPP-21-04)  
6:56 PM** A request from Skyview Mobile Home Park, LLC with technical assistance from Carver Engineering for preliminary plat approval of Skyview Subdivision-Resubmittal, a proposal for 12 manufactured home lots to be served by Evergreen Water and Sewer District. Access to each lot is from an existing internal subdivision road via West Cottonwood Drive and Smith Street. The proposal has been resubmitted after final plat approval as the applicants are proposing to change a condition to repave West Cottonwood Drive and not pave Smith Street.

**STAFF REPORT  
6:57 PM** Mark Mussman reviewed staff report FPP-21-04 for the board.

**BOARD  
QUESTIONS  
7:00 PM** None

**APPLICANT  
PRESENTATION  
7:01 PM** Andy Hyde with Carver Engineering, 1995 3<sup>rd</sup> Ave E, represented the applicant. He stated the final plat for Skyview Subdivision had been filed and there was an SIA for the paving, however there was an opportunity to improve West Cottonwood to alleviate the conditions caused by slumping of the road due to an elevation difference between the east and west side of the road. The applicant requested to repave the slump damaged side of West Cottonwood instead of paving Smith Street. Smith Street had been considered the internal subdivision road even though three of the lots fronted it while nine lots fronted West Cottonwood. Since the property had been filled on the lower elevation side, it made sense to improve the road before it was slated to be chip sealed.

	The applicant had talked to Dave Prunty, the Road Department Director, who approved of the proposal. Dust abatement would be used on Smith Street.
<b>BOARD QUESTIONS</b> <i>7:07 PM</i>	Larsen questioned what exactly was going to be paved and discussed this in detail with Hyde.
<b>AGENCY COMMENTS</b> <i>7:09 PM</i>	There were no public agencies present to comment. Written comments were reviewed in the staff report.
<b>PUBLIC COMMENT</b> <i>7:09 PM</i>	None
<b>BOARD QUESTIONS</b> <i>7:09 PM</i>	None
<b>MAIN MOTION TO ADOPT F.O.F. (FPP-21-04)</b> <i>7:10 PM</i>	Breckenridge made a motion, seconded by Jackson, to adopt staff report FPP-21-04 as findings of fact.
<b>BOARD DISCUSSION</b> <i>7:10 PM</i>	None
<b>ROLL CALL TO ADOPT F.O.F. (FPP-21-04)</b> <i>7:10 PM</i>	Motion passed unanimously on a roll call vote.
<b>MAIN MOTION TO RECOMMEND APPROVAL (FPP-21-04)</b> <i>7:10 PM</i>	Breckenridge made a motion, seconded by Horn, to recommend approval of FPP-21-04 to the Board of County Commissioners.
<b>BOARD DISCUSSION</b> <i>7:10 PM</i>	None

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FPP-21-04)  
7:10 PM**

Motion passed unanimously on a roll call vote.

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**BOARD BREAK  
7:11 PM**

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**NORTH FORK  
LAND USE  
ADVISORY  
AMENDMENT TO  
SECTION 3.40  
(FZTA-21-01)  
7:24 PM**

A request by the North Fork Land Use Advisory Committee to amend Section 3.40 (NF North Fork) of the Flathead County Zoning Regulations (FCZR). The proposed changes are extensive in nature and the request is considered to be a complete rewrite of Section 3.40 (NF North Fork).

**STAFF REPORT  
7:24 PM**

Mark Mussman reviewed staff report FZTA-21-01 for the board.

**BOARD  
QUESTIONS  
7:26 PM**

Stevens asked for clarification as to who North Fork LUAC was and how they were appointed. Mussman discussed the history of how it came to be and their role as an advisory committee for the North Fork area. Stevens asked if the meetings had been publicly noticed and if minutes were kept. Mussman said they were noticed appropriately and minutes were taken. Stevens wanted to make sure because the county had gotten in trouble before with other LUACS not doing things appropriately.

Horn asked if the Zoom Meetings had been properly noticed. Mussman differed those who ran the Zoom Meetings; which are typically recorded and written minutes were taken.

**APPLICANT  
PRESENTATION  
7:28 PM**

Kevin Halsey, 14815 North fork Rd., represented the North Fork Land Use Advisory Committee (NFLUAC) and expressed why they felt the need for the change, which was highlighted by the conditional use permits that had been applied for last summer. In the course of that process, it became clear that there were conflicting interpretations of the regulations. The Planning Department made it clear it would be worth providing some clarification. He discussed the impact and changes in 2020; increase of traffic, festivals, etc. which highlighted the fact that the regulations needed clarification and updating. They wanted to tighten definitions and add basic performance standards where needed. Although there were a lot of changes, none of the changes were outside their goals. The goal was to make sure that the regulations were more in line with the neighborhood plan which had been



created in 1998 and updated in 2008. Their second goal was to ensure the changes reflected the values, concerns, and needs of the North Fork Community. They focused on outreach to gather feedback and tried to make sure they received a comprehensive perspective as to how the Community of North Fork felt. He discussed their efforts in great detail and the process they went through to come up with the proposal that was before them.

**BOARD  
QUESTIONS  
7:35 PM**

Jackson brought up that the proposal had regulations that fell in a variety of federal, state, and county laws. He asked the applicant to explain how it meshed and would be enforced.

Halsey understood that, where they had definitions specifically within their special use district, those were only applicable to them and those were in affect rather than county regulations. There were a number of places where the county defined things that were not necessarily appropriate for the North Fork Area (i.e. casinos). He said there were places, specifically around campgrounds and RV parks, where there were considerable state laws on those topic. They put a footnote [in the text] to state that compliance with their regulations did not ensure compliance with state law. Under state law, if you had two RVs parked on your property, you needed to go through a permitting process through the state. Within their regulations, you can have as many RVs as you wanted to. Guest accommodations did not have density requirements [in their regulations]. There was conflict with the state law but, they had expressed, that they were not saying that someone could break state law however they were not in violation of their regulations if there are 3 RVs parked on the property.

Jackson asked how that would be enforceable. Halsey said they would not enforce that because there were not density requirements for guest accommodations. There were a number of [issues] that they had received feedback from the community as issues of concern, including noise. There were different perspectives of what was appropriate. Ultimately, there was a desire for the ability to create friendly peer pressure, within the community as to create a culture where, if you were building a house, you would put mitigation measures on a generator. It was not required but they wanted a mechanism whereby the outreach committee could point to the language and say that these were the recommendations. These were not anything that would require enforcement. The Planning Director was very clear that the county would not be able to enforce that. They had a North Fork patrol but they would not be enforcing these regulations and ultimately, enforcement would land on the county and not in their hands.

Jackson addressed that they could ask [someone] not to make the noise but it was not enforceable. Halsey said they were hoping to create a culture where they would do what they can to be a good neighbor. Ultimately, what was in the proposal, were “good neighbor policies”. The exception was in the

performance standards. For example, fire was a significant issue in the North Fork. The performance standards were worded that they could not increase the fire risk and/or likelihood of fires being started. He felt like this would be addressed at the conditional use permit process. Nevertheless, he felt that it was important to state something meaningful.

Jackson noticed there were sections where the terminology were recommendations and stated if they were recommendations, then people would have to do it out of courtesy.

**AGENCY  
COMMENTS  
7:41 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC  
COMMENT  
7:41 PM**

Betsey Holycross, 13455 North Fork Rd., spoke in support of the application. She was a part of the ad-hoc committee that put together the text amendment proposal. She clarified that the original NFLUAC had been appointed by the Commissioners. She discussed their outreach efforts and the amount of public comments, mostly in support, which reflected that. She pointed out that some of the negative comments received addressed regulations that were already in place.

Pat Cole, 14405 North Fork Rd., spoke in support of the application.

Lynn Ogle, 296 Kintla Ranch Rd. spoke in support of the application. He had been a part of NLUAC since the 1980s and felt this [proposal] was as good as he had ever seen.

Don Sullivan, 17000 North Fork Rd., spoke in support of the application. He discussed the history of his property and said he supported the text amendments.

Janet Lay, 15920 North Fork Rd., spoke in support of the application, as written.

Karen Colby, 1182 Numa Peak Ln, spoke in support of the application. She urged the board to support the amendments as the community had.

Gerry Stearns, 635 Moose Creek Rd., spoke in support of the application. She felt it was something they had needed for a long time.

Ed Heger, 15640 North Fork Rd., spoke in support of the application. He discussed the history of his property and the community working together on the proposal. He viewed this as a clarification [of the regulations] and strongly supported it.

James Rittenburg, 1276 Long Bow Trail, spoke in support of the application. He agreed with the previous comments and was in support of the changes.

Lee Secrest, 14045 North Fork Rd., spoke in support of the application. The community pulled together to make this happen and he asked the board approve it.

Amy Seacrest, 14045 North Fork Rd., spoke in support of the application. She was in full support of the text amendments and appreciated the community outreach and input.

Dan Caldwell, 1210 Numa Peak Ln., spoke in support of the application. He appreciate the work done.

Karen Reeves, 230 Missy Lane, spoke in support of the application.

Diane Boyd, 800 Trail Creek Rd., spoke in support of the application. She discussed her history in North Fork. She discussed the negative impact the changes had in the area. She discussed the community coming together and asked they accept [the proposal] as is.

John Stone, 1595 Paradise Ridge Trail, spoke in support of the application.

Jerry Wernick, 574 E Red Meadow Dr., spoke in support of the application. He discussed his history of living in the area. They operated a small business in the area and felt they needed to protect private property rights while protecting the environment and nature of the area.

Jim Elk, 587 E. Red Meadow Dr., spoke in support of the application.

Bruce McNeil, 2969 Rufenach Circle, spoke in support of the application. He had been involved in email outreach. He was pleased with the process.

Karen McDonough, 17280 North Fork Rd., spoke in support of the application. She discussed her history of being in North Fork. She discussed her love for North Fork and their desire to preserve something that cannot be replaced.

Karina Petty, 525 Moose Creek Rd., spoke in support of the application. She was a part of NFLUAC and the ad-hoc committee. She described the efforts that were made to make sure that everyone was heard. The regs that had been developed to help preserve the area.

Jack McFarland, 11012 Inside North Fork Rd., spoke in support of the application. He discussed his family history. He discussed the changes in the area and reiterated that the regulations needed “teeth”. He hoped they would take the recommendation as is.

Dawn Jacobson, 61 Moose Creek, spoke in support of the application.

Will Hammerghist, 265 Polebridge Loop, spoke in support of the application. He was a business owner and felt the sub-committee took [the community’s] concerns into account.

Linda Coolidge, 612 Polebridge Loop, spoke in support of the application. She discussed their history with the area. She felt the upgrades were totally necessary.

Dell Coolidge, 612 Polebridge Loop, spoke in support of the application. He discussed his history in the area. He treasured the place. They had a conservation easement, which they had done with the hope to reserve some of the natural landscape as is [and not developed].

Greg Puckett, 8855 North Fork Rd., spoke in opposition of the application. He felt the rewrites were not just clarifications but substantial in nature. He felt some of the things were sensible proposals but, the way they were written were pitfalls, and should be carefully avoided for legal reasons. He discussed the exclusiveness behind the project and how they were not included. They loved the North Fork but were not in favor of more regulations against people who wanted to eek out a living. He did not think the revisions were sensible or enforceable.

Beth Puckett, 8855 North Fork Rd., spoke in opposition of the application. She felt that it was not just a text amendment but an attempt to rewrite zoning. She felt it was reactionary and initiated by a landowner that had tried to start a new business [last year], in which the community did not realize that it was allowed in the zoning. She too discussed how they were left out of the outreach process.

Chuck Ludden, 201 Thayer Lane, spoke in support of the application and commended the committee for the amount of outreach they did.

Kenna Halsey, 14815 North Fork Rd., spoke in support of the application. She confirmed [what Puckett had implied] that their response was triggered by the conditional use permits that were applied for last year. It had drawn their attention to the need to clarify the language. It was unclear, ambiguous, and leading to conflict because people did not understand what it meant.

Lorna Rittenberg 1276 Long, spoke in support of the application. She felt that the text amendments would be helpful for people moving into the area.

Vernon Petty, 525 Moose Creek Rd., spoke in support of the application.

Bill Walker, 11233 North Fork Rd., spoke in support of the application. He was on multiple boards which gave him a broader view of what was going on. He thought it was amazing to get this many people together in order to come up with amendments and was flabbergasted that it was not as contentious as he thought it would be. He felt that it was a good piece of work and encouraged them to pass it along.

Randy Kenyon, 77 Moose Creek Rd., spoke in support of the application. He was the chair of NFLUAC. He wanted to note that all 9 members were in support of the amendments. They had over 100 comments and 97% of them were positive. He didn't know what more they could have done. He was in agreement with what else had been shared.

Karen Black, 14329 North Fork Rd., was on Zoom and spoke in support of the application.

Brooke Allison, 1070 Numa Peak Lane, was on Zoom and spoke in opposition of the application. She loved clarity in bringing to the North Fork Plan, and appreciated the work done. She believed that it was written as a reactionary response by two individuals who were trying to make a living and support their families in the North Fork; and now the whole region will be governed by an amendment written and designed as a response and offense to a particular situation, at a particular time, on a particular road. She felt it was a dangerous thing to base an entire region's rights on two people. They claimed that nothing has changed with the exception of clarification of definitions but there were new items including work camps. She felt the revisions designed to prevent people from being able to earn an income, and this will limit the type of person that can live in North Fork. She did not feel the diversity of opinions were represented in the amendment. It would limit who could live in North Fork; the price ranges were hedging out anyone in the middle class and now they would not be able to earn money there. For anyone of modest means, this amendment would ensure that future generations would not have the privilege of living there; it would be for upper class only. She discussed the limitation of property rights in great detail. She felt that it was reactionary and not appropriate to put on future generations. She discussed things being grandfathered in. She discussed what she perceived as taking away property rights, not at the expense of anyone who would be grandfathered in. She said a lot of people opposed but did not want to be subject to a witch hunt.

**APPLICANT  
REBUTTAL  
8:22 PM**

Holycross felt it was important to point out that, while there were situations that drew their attention to the regulations, it was not that the amendment was done specifically to oppose an individual or an action. It drew their attention to the fact the regulations in place were 23 years old. The county had pointed out that there were inconsistencies. There may be hurt feelings but it drew attention that they needed to update [the regulations] because there had been a lot of changes in the North Fork area in the last 23 years. It was going to continue to cause problems as people moved in.

**STAFF  
REBUTTAL  
8:24 PM**

None

**BOARD  
QUESTIONS  
8:24 PM**

Nogal asked Halsey (Kenna) about the businesses that initiated the concerns and what type of businesses they were. Halsey discussed the proposal for a yoga retreat and the misunderstandings [regarding density that could be with a commercial use next to a residential lot] that came along with that.

Jackson said he would not want someone getting into his property rights and telling him how many people he could have on his property. He would be more concerned about noise, lights, and smell. He also felt there should be more detail as to what businesses would be allowed up there, in order to let people be able to earn some money and provide a service in that area.

Halsey (Kevin) said that, in regards to the lights, odors, and noise, they did put a performance standard to address those concerns. There were a lot of conversations in the community as to whether it should be mandatory or suggested. Some of it became mandatory and some of it became suggestive. Noise was the big contentious item. There was a prohibition on on-going and inconsistent production of smoke fumes, gas, and odors. There was something that addressed lights. Halsey said it was in there but was introduced as guidance. They wanted to create a culture of friendly peer pressure and guidance vs. trying to mandate something. It was something that the county had indicated that they would have a hard time enforcing. They did have language on those items but it was a mix of "thou shalt" and "thou should". In regards to density issues, there was a lot of sensitivity around that issue. Three percent of the land was privately owned and the rest was state and federally owned. There was not a lot of property but where they have had small subdivisions that is where the conflicts have occurred. There was a desire, in terms of wildlife and wildfire management, to maintain larger acreages. In terms of the density for rentals, that was part of managing that. He discussed the details of what they were proposing with the density; with the desire of walking the fine line of not affecting property rights but also putting some teeth into it.



Jackson wondered if his family could afford to buy a house up there and raise their family there. Halsey said they could build as many cabins for family as they wanted. There were no prohibitions with that [in regards to family].

In regards to business opportunities, Halsey said they desired to restrict home base businesses to the property themselves. They were trying to limit the number of outfitters, where they were based on the property but were all over North Fork.

Horn asked if they had looked at the county procedure for VRBOs. Petty spoke specifically to the VRBO. Horn asked if they were wanting to adopt the County's procedure for VRBOs or what their intended policy would be. Petty explained that, at the time the county had adopted said policy, North Fork had been excluded from that because they had their own vacation policy in place. At that time, they had their historical zoning for short term rental and wanted to leave it as it. When they reviewed emergency services and utilities, they realized they needed to develop and update an appropriate rental accommodation policy for our community. She discussed, at great length, the difference between guest accommodations vs. short term renting. In looking at the density, they were preserving the noise, the dust, and keeping the stress on the emergency services as something that they can live with. Those were things that had been taken into account. They did look to the county definition for that.

Adams asked Halsey (Kenna) about Numa Ln and how many 2.5 acre lots were in that area. The answer was 6. Adams asked if they were in favor of the 20 acre minimum lot size. Halsey (Kenna) explained that there were areas subdivided before the 20 acre minimum was agreed upon by the community; these were smaller parcels. One of the things that they didn't have, was zoning or planning that protected the smaller parcels, like there would be if they were in the city.

Stevens asked Halsey (Kenna) if the minimum lot size for a new subdivision was 20 acres but then questioned why 40 acres was required for a hostile [and how they arrived at that number]. Halsey (Kenna) said there were a large number of people who wanted to get rid of hostels all together but 40 acres made people more comfortable because it provided a buffer [from the impact] between [the hostile] and the adjacent property owner. Stevens understood but said that 20 acres of forested land was a whole lot of protection from what a neighbor was doing. He just was looking for a clarification. Halsey (Kenna) said it was just a place to start.

Breckenridge asked Halsey (Kevin) about the format of the amendments and questioned why they created a new format. As a consultant, Breckenridge said they needed to keep it in the same format so that it was easy to find the

answers easily. Halsey (Kenna) said she had formatted it and they had taken the existing North Fork Regulations and stayed within those sections. They went to other neighborhood plans for examples when they needed to add subsections. They tried to mimic what was there but were open to formatting it however the county needed it. They discussed this at length.

Larsen noticed that they were not going to allow coin related washing machines but were going to allow RV Parks, as they were in a different definition. It made sense to him that they should allow coin operated washing machines if they were going to have an RV Park. Halsey (Kevin) said there was no desire to have a laundry mat as a stand-alone business. There was no desire to have showers as a stand-alone business but they were [both] allowed as a part of an existing business. Larsen clarified that there could be a coin operated laundry mat in an RV Park and Halsey replied yes. Larsen felt that was confusing and could possibly cause some issues.

Larsen also asked if they were prohibiting small gravel pits. Halsey (Kevin) explained that there was a treaty with Canada that regulated what extractive activities could occur in North Fork. Basically, the only allowable extractive activities was gravel and there were size limits as to how much of that could occur. There were no private gravel pits operating there currently. Based on the fact that there was an existing treaty with Canada, and they were getting rid of extractive industries, it pretty much went away. If someone had come forward with the desire to have one, they would have reconsidered that. Larsen wondered if they were thinking of mining activities or gravel as well. Halsey (Kevin) said that gravel was not currently in there but suggested that it could be put in as a conditional use. The prevailing input was that they did not see the need to have it in. He continued to discuss this in great detail.

Horn wanted it confirmed that, if currently someone needed gravel, they would have to haul it up to North Fork. Horn brought up that there would be an environmental impact from the trucks [hauling gravel] driving up there and dumping the gravel. Halsey (Kevin) understood there could be less of an impact having one up there but they had not had any interest in creating one up there. They wanted to be careful of not limiting the County Road and Bridge Department with this. They checked and verified it was not going to affect any of the county operations. If the county had the desire from starting a private pit, there was nothing stopping them, however nobody had expressed interest in doing so.

Larsen addressed that they would have some control over it if they had to go through a conditional use permit. Halsey said that it was not an issue that would create a large amount of heartburn but the community had not expressed a desire to have one. A conditional use would provide some performance standards that weren't there previously.



Horn asked about grandfathered lot size and asked what would be allowed in terms of conditional use. Halsey (Kevin) discussed the different times regulations were adopted and what would be grandfathered and what would not be. Halsey (Kevin) addressed the comment over a 20 acre lot and coverage and said that a 20 acre wooded lot would give lots of protection but a 20 acre lot that had recently been affected by fire, did not give the same protection. The philosophy of “if it hasn’t been burned down yet, it probably will at some point” was one that they had to take into consideration in that area.

**MAIN MOTION  
TO ADOPT F.O.F.  
(FZTA-21-01)  
8:54 PM**

Adams made a motion, seconded by Jackson, to adopt staff report FZTA-21-01 as findings of fact.

**BOARD  
DISCUSSION  
8:54 PM**

Stevens said he as nervous because there were some significant questions that he could not answer. He reviewed the findings; the problem was that the findings were a lead into the issue. He felt some of the findings were questionable and discussed some of them specifically. He felt the amendments were more than just clarification of the regulations, it was changing them. It made him nervous because he saw land use regulations used in a way, whether intentional or not, to make sure that the “haves remain the haves” and the “have nots remain the have nots”. He was particularly nervous about that. That was why he presented the question about the 40 acres [and the hostile]. He mentioned it took a lot of courage [of the Pucketts] to stand up for their principles and come into a room full of people who didn’t like what they had to say. He wondered how code compliance would make a determination based on language such as “excessive”, “visual disturbance” or “significant”. What was significant to him may not be significant to his neighbor. How was the code compliance officer going to figure that out? Given the testimony, he did not have sufficient time to review through it all. He reiterated that the regulations were laws and, as such, they could not be capricious or arbitrary. Some of the things proposed were borderline capricious; there was no real reason for them. He was getting real nervous about what they were putting on the county. He suggested they table it. He wasn’t going to vote until he was sure he wanted to.

Adams addressed finding #2 on page 6, which Stevens had touched on, and said that when he read it, he had a hard time seeing where it was preserving anybody’s property rights other than making it nicer for the neighbors. It was not preserving rights, it was stripping them away. He found that finding #2 was incorrect and did not believe it preserved the rights for property owners.

Stevens appreciated the previous comments but said he was done trying to rewrite staff reports in the middle of a planning board meeting. It did not work because of time and other constraints.

Larsen addressed that the regulations had to be in compliance with the Growth Policy. There was a section addressing individual property rights in Flathead County; which Stevens had hit on. People liked to pick out words or sentence somewhere and had the potential of ending up in a lawsuit. He liked to see zoning regulations be short and concise. There were a lot of words that should be in the Growth Policy but felt they did not belong in the zoning portion. He read individual property rights section on the zoning. He found some of the language to be arbitrary and difficult to interpret. Someone had to decide what [those definitions] meant. He discussed some of the terminology used in the amendments in great detail and how one person may define it as one thing and another may differ. The property rights section stated there has to be equal protection for people. As opposed to what stated in the amendments proposal, if someone wanted to attend a church in North Fork, they had every right to, even if they were not from that area. He did not think it would be constitutional to preclude them from coming.

Larsen felt there were a lot of good things in the text amendments but he had some real concerns. He could not vote for it [tonight] as it was written. He would like to see it formatted differently; shorter. He was not against what they were doing by putting more teeth into it but felt some of the things that were amended had the potential of future liability and in how it was going to be interpreted. He encouraged they table it and continue to work on it. He hoped they understood what he was saying; when words are used such as “substantial” or “significant”, it was difficult to interpret that. He wanted to see the zoning spelled out specifically as to what was “substantial” and “significant” instead of actually using those words.

Stevens said he had brought up the rewrite of the Growth Policy because he wondered if it was better off to include the North Fork Plan in the rewrite of the Growth Policy, using their amendments as a guideline to refine it and make it into a coherent and legally defensible document that did not have a whole lot of arbitrary and/or capricious wording.

Jackson discussed how he had been involved in state and local government, as well as the conservation district, and how he had to monitor carefully what they did as to not violate property rights. The fine could be very heavy. After reading this, he was concerned that what needed to be in the amendments were things that could be enforced. He encouraged that philosophical statements should be put in another document. The amendment had both and he felt it was not ready. He thought it was an overall good idea and agreed with a lot of the amendments made.

Adams said there was a lot that had him concerned and a lot that he felt the Planning and Zoning Office and Planning Board did not have a place in it. Under performance standards, he felt the language was dangerous because it could be interpreted in so many different ways. He read the Performance

Standards. He addressed the additional traffic generation; which could be interpreted as any type of future development, including a residential structure. His example of that was that any house would generate additional traffic. If it was read, as is, it could be interpreted that what was up there now was all that would be allowed and there would be no more. It did not matter if you had 20 acres or more. He also felt there were things in the amendments that were extremely unenforceable. He addressed the amendment regarding raising livestock and electric fencing. He said they were trying to manage that, if someone had chickens, they had to have a fence, including what kind of fence it had to be, as well as properly installed (which he did not know who would enforce or would determine what proper installation would look like), and it had to be working. He wondered if there was going to be a fence police going around touching the fence. His point was that it was a mess because they could not go around telling people what kind of a fence people had to have around their chicken coop. He addressed the amendments regarding growing and maintaining vegetation that was a wildlife attractant. He had a problem that they were trying to mandate fruit trees and vegetable gardens. He was also very concerned about the amendment which addresses churches and said the Planning Board was not here to restrict people's first amendment rights. If they tried to regulate, not only the size of the church but who could go to the church, he would be amused to see that in a supreme court. It would be a disaster. He asked how one would define a mega church? There was no definition [in the amendments/regulations]. Even if it was defined, they were still violating 1<sup>st</sup> amendment rights; protected under the Constitution of the United States. He was concerned that a convenient store or souvenir shop would not be allowed within 6,500' within properties that were, or could be used for, private residence. That was implying there would be no convenient stores in North Fork. He was also concerned about the amendment that a convenient store or souvenir shop shall have access to a discreet water source. He did not know what a "discreet water source" was. He read it as they were saying no more wells because there was no definition of a discreet water source and any well would pull down the water source. He was concerned the limitations set on home base businesses and occupations and felt it was not the place of the Planning Board to monitor and regulate how many employees a business can have. He was concerned about the performance standards regulating that people cannot even run a generator when "renting a space" when the lot sizes were huge already. There was discussion with the audience about what was requested to be regulated and what would be grandfathered in. He felt there was a lot that, as a Planning Board, they should not be involved in and felt that it was a violation of individual property rights. He felt it was important to note the rights of an individual and the rights of a community. They did not have rights that were guaranteed to a community but did have rights for the individual in the United States. That was his concerns in a nut shell. As it is, he could not support it.

Mussman asked the board what they thought about tabling the application in order to help them move forward. He suggested they eliminated the performance standards and work on some of the definitions such as discreet water sources and such.

Larsen felt there were a lot of things that could be listed as conditional uses and they would be able to put their requirements as a part of those. They tried to put their requirements in the definitions but it made the arbitrary and hard to interpret. He felt it would be better off to lean on the conditional use process to have more say in what happens; like the home base business and employee regulation.

Larsen was not opposed to what they were proposing but it hit a wall with him because of the problems with it. Larsen felt they should pair it down to something more similar to what they have in the other zoning regulations and utilize the conditional use process. If they were going to have definitions in there, they needed to define them, otherwise it should not be in there.

Mussman said that they could table it until a date “uncertain” and they could take the comments and move forward accordingly. Mussman addressed a comment from Adams regarding home occupations and said, in many other zoning designations, more than 1 non-family employee did require a conditional use permit. He agreed with the concern over the definition of mega church. The definition of discreet water source might be confusing. Larsen asked that [the applicants] look into that a little more because that may be a DNRC jurisdiction. It did not need to be in the zoning regulations. Mussman said that there were a list of performance standards that are appropriate for that particular use. He felt that the permitted and conditional uses were important and really clarified things. In some aspect, it offered more opportunity in terms of the density and guest and rental accommodations. He felt they were willing to move forward with it.

Stevens said that some of the stuff was more appropriate in a pamphlet that was a “guide to living in North Fork” than it would be embodied in law. When they started embodying in law that creates a whole different dimension to what they were doing. At that point, it becomes an impact on somebody’s individual property rights. That was some of the concerns that were brought up earlier. He always sympathized with the Land Use Advisory Committees and citizen groups because they don’t have the knowledge of what a statute or ordinance or resolution can appropriately contain; they just put down their desires and what they think is right. When it comes to embodying these things into a statute, ordinance, or resolution, they have to be more specific than that. They included a lot of things that might be desirable but probably not advisable to have in legislation. This was a legislative process they were going through by creating new law.

Larsen asked what the applicants wanted to do. [An unknown member of the audience] asked what the timeline of the process would be if they were to table it. Larsen said that if they tabled it, it would be up to them, but he encouraged them to go back and pair it down to be similar to the other zoning regulations and bring it back when they are ready. Definitions needed to be made or taken out. He encouraged them to rely more on their conditional uses because it was a powerful tool; they had more control over what was allowed.

Stevens encouraged them to be aware of the fact that the language that the Planning Board would like to see, would be language that would pass the test of law; because this was a law and it cannot be fuzzy or vague. It had to be backed up. The less words, the better, because the idea gets there without the “fuzzy”. He asked them to be cognoscente of the fact that what the Board will do is run it by the impact that it has on individual property rights. If it was going to take away individual property rights, it had to be due to health and safety. They were going to have to tie that all together because that was the basis for land use regulations, the only reason why they are allowed to use the police power of the government to put any regulation on any piece of property, was health, safety and general welfare. Just because we think it is a good idea; that doesn’t cut it. [The Planning Board] took that seriously and kept those things in mind, not just esthetics.

Breckenridge asked that they take the old document and merge the new document, with the edits made clear, so that the board members can review just 1 document. He said it was hard to cross reference the old and the new between the two documents and there was no way that he could take the time to do it justice by cross referencing the two documents.

Nogal thanked the North Fork representatives for the presentation and said that their commitment to each other was a wonderful thing. She communicated that it was one of the best community group presentations that the board had been privy to. She said that trying to steer what was going to happen in their area and trying to mitigate the negative things that could happen, is more difficult than it sounds. It is hard for individuals to take the emotion out of it. She had learned, by being on the board, the legal issues that had put them in legal jeopardy and they were a “real” thing. She commended them and hoped that they would stick together and move forward with it. It was just a question of understanding the system and fine tuning it. She congratulated them on making good progress and hoped to continue to work together.

Adams withdrew the original motion. Jackson withdrew his second to the motion.

**WITHDRAW  
MOTION TO  
ADOPT F.O.F.  
(FZTA-21-01)  
9:30 PM**



**BOARD  
DISCUSSION  
9:30 PM**

Jackson felt that tabling it was the right thing to do. There were a lot of good suggestions to take into consideration. He wanted to emphasize that property rights guarded their own property. People do things against your property right. He continued to discuss property rights and his personal experience with people violating his own property rights. He felt that another document for the friendly North Fork suggestions were appropriate.

**MOTION TO  
TABLE  
(FZTA-21-01)  
9:35 PM  
BOARD  
DISCUSSION  
9:35 PM**

Nogal made a motion, seconded by Adams, to table FZTA-21-01.

None

**ROLL CALL TO  
TABLE  
9:35 PM**

Motion passed on an 8-1 roll call vote. Stevens dissented.

**OLD BUSINESS  
9:42 PM**

None

**NEW BUSINESS  
9:42 PM**

Mussman told them that this would be the last Planning Board Meeting as he has given his resignation.

**ADJOURNMENT  
9:44 PM**

The meeting was adjourned on a motion by Nogal and Adams at approximately 9:44 p.m. The next meeting will be held July 14, 2021.

  
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Greg Stevens, Vice-Chairman

  
\_\_\_\_\_  
Angela Phillips, Recording Secretary

*APPROVED AS SUBMITTED/CORRECTED: 7/14/21*